

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

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APR 21 2004

Michael M. Milby, Clerk

UNITED STATES OF AMERICA

Plaintiff, §

VS.

Criminal No. H-04-155-3

§

TIMOTHY KRAMER

18 U.S.C. § 1962(d)

TODD REID

§

(RICO Conspiracy)

BRIAN LAVIELLE,

Defendants §

18 U.S.C. § 1343

(Wire Fraud)

§

18 U.S.C. § 1341

§

(Mail Fraud)

§

15 U.S.C. § 78m

(Falsification of Books)

§

18 U.S.C. § 1957

§

(Money Laundering)

INDICTMENT

The Grand Jury Charges that:

I. INTRODUCTION

At all times material to this Indictment:

A. The Business Entities

1. Duke Energy Corporation

Duke Energy Corporation ("Duke Energy"), with headquarters in Charlotte, North Carolina, was a

publicly-owned North Carolina corporation with its principal place of business in Charlotte, North Carolina that provided energy and energy services, and offered physical delivery and management of both electricity and natural gas throughout the United States and overseas. Duke Energy's common stock was registered with the Securities and Exchange Commission ("SEC") under Section 12(b) of the Securities Exchange Act of 1934 and listed on the New York Stock Exchange. To sell securities to members of the public and maintain public trading of its securities in the United States, Duke Energy was required to comply with provisions of the federal securities laws, including the Securities Exchange Act of 1934 and regulations promulgated thereunder, that were designed to ensure that the company's financial information was accurately recorded and disclosed to the public.

As such, Duke Energy was required among other things, to file with the SEC certain financial statements and devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to

permit preparation of financial statements in conformity with Generally Accepted Accounting Principles ("GAAP") and make and keep books, records, and accounts that accurately and fairly reflected the company's business transactions. GAAP is a body of rules that governs the accounting for financial transactions underlying the preparation of financial statements.

One of Duke Energy's business segments, North American Wholesale Energy ("NAWE"), developed, operated, and managed power plant facilities and engaged in commodity sales and services related to natural gas and electric power. NAWE conducted some of these operations through Duke Energy North America, LLC ("DENA") and through Duke Energy Trading and Marketing, LLC ("DETM"). Duke Energy was an issuer of securities registered pursuant to the Securities Exchange Act of 1934.

2. DENA

DENA was a wholly-owned subsidiary of Duke Energy that developed, owned and managed portfolios, or trading books, of natural gas and electric power plant facilities. Through its trading management strategy,

DENA purchased and utilized natural gas in order to generate electricity at its power plant facilities. DENA also supplied electricity to wholesale energy customers. DENA operated through its Eastern U.S. Gas and Power Trading in Houston, Texas ("DENA East"), and its Western U.S. Gas and Power Trading in Salt Lake City, Utah ("DENA West"). DENA East's segment encompassed the continental United States east of the Rocky Mountains. DENA WEST operated west of the Rockies.

3. Financial Portfolio Management

Financial Portfolio Management, a division of DENA East, traded in natural gas and power for the purpose of, among other things, reducing the risk of long-term assets associated with future price changes in gas and electricity. Financial Portfolio Management consisted of traders and other employees of DENA East.

4. DETM

DETM was a joint venture with Exxon Mobil, and marketed natural gas and electricity to various customers across North America. DETM marketed natural gas primarily to local distribution customers, electric power

generators, municipalities, major industries, and other power marketers. DETM's electricity marketing operations included purchasing power from suppliers and from DENA's domestic power plant facilities for resale to customers.

5. New York Mercantile Exchange ("NYMEX")

The NYMEX was and is the world's largest physical commodity futures exchange and a preeminent trading forum for energy. The NYMEX is located in New York City and its trading operation generally closed about 2:30 pm, Eastern Time.

B. The Defendants

1. Timothy Kramer

Timothy Kramer was Vice President of Financial Portfolio Management and was in charge of several financial traders of gas and electric power. Timothy Kramer reported directly to Todd Reid. Timothy Kramer worked in DENA East's offices in Houston, Texas.

2. Todd Reid

Todd Reid was Senior Vice President of DENA East and was in charge of the DENA East supervisors who managed

financial gas trading, financial electric power trading and the Financial Portfolio Management. **Todd Reid** worked in DENA East's offices in Houston, Texas.

3. Brian Lavielle

Brian Lavielle was Director of Southeast Region and an energy trader for Financial Portfolio Management and reported directly to **Timothy Kramer**. **Brian Lavielle** worked in DENA East's offices in Houston, Texas.

C. Terms and Phrases

1. Trade

A trade is a transaction in which a business either buys or sells energy (natural gas or electricity) or buys or sells a contract for the delivery of energy at a future date.

2. "Round Trip" Trades or "Sleeves"

A "round trip" or "sleeve" trade was a pre-arranged transaction involving energy or energy contracts which involved the simultaneous purchase and sale of electricity or natural gas between the same parties, for the same volume and calendar year, at the same price,

with no contemplation of delivery of a product and no real possibility of profit for either party.

3. NYMEX "Settle" and "Last Night's Settle"

NYMEX "settle" refers to the average price for which a commodity such as energy was trading during the last portion of the trading day. "Last night's settle" refers to the NYMEX settle of the previous day.

4. Mark-to-Market

Mark-to-market is the process whereby energy trading contracts were adjusted to market value, and the unrealized gain or loss is recognized in current earnings. **Mark-to-Market Accounting** is mandated when companies have outstanding energy-related contracts on their books at the end of a quarter, such as agreements to sell electricity or buy natural gas over a future period of time at certain prices. Under those rules, companies estimate the fair market values of those contracts on their balance sheets each quarter as assets or liabilities. Changes in the value of a contract from quarter to quarter then are either added to or subtracted from net earnings.

If, for instance, the market price for natural gas rises above the price specified in a company's contract to buy gas, generally the company will record an unrealized gain. That gain is recognized as income and recorded as an asset on the company's balance sheet. At the end of each quarter, the contract is revalued. The value of the previously recorded asset is increased, and any increase in unrealized gain is recorded as additional income. On the other hand, if the market value for gas falls, and the value of the contract has declined, any change in the contract's value is recorded on the company's balance sheet, and a loss is recorded on its income statement.

5. Mark-to-Market Book

A mark-to-market book is the record of the fair market value of a contract that is recognized in a business's earnings when the contract is first transacted. Any change in the value of the contract also is recognized each day thereafter.

6. Accrual Book

An accrual book is the record of transactions in

which the realization of a business's revenue is delayed until the object of the contract - usually delivery of a product, is completed.

7. Day-One Profit and Loss ("P&L")

Day-One P&L refers to the profit and loss that is realized by a business on the first day that a contract is bought or sold. Trades entered into a mark-to-market book represent day-one profit or loss on the day of the trade.

8. Bonuses

Officers and employees of DENA East were compensated by a salary and, among other things, an annual bonus, consisting of cash and stock in Duke Energy. The bonuses were usually received in the early part of the year subsequent to the year pertaining to the bonus. A major factor at DENA East in determining the amount of the bonus was the performance of the mark-to-market books. For the year 2001, the defendants received bonuses from Duke Energy in cash and Duke Energy stock as follows:

- a. **Todd Reid** -- \$5,000,000

b. Timothy Kramer -- \$4,000,000

c. Brian Lavielle -- \$340,000

9. Bonus Pool

The funds for the annual bonuses of officers and employees of DENA East came from a bonus pool. This bonus pool was calculated by taking 15% of DENA's consolidated net earnings before interest and taxes ("EBIT"). EBIT is generated by the trading and marketing activities of DENA. The unrealized profit or loss in the mark-to-market book was included in DENA's EBIT and, thus, in the bonus pool.

COUNT ONE

(RICO Conspiracy -- 18 U.S.C. § 1962(d))

A. The Enterprise

Financial Portfolio Management constituted an "enterprise", as defined by Title 18, United States Code, Section 1961(4) (hereinafter "the enterprise"), that is, a group of individuals associated in fact. The enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common

purpose of achieving the objectives of the enterprise. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

B. Purposes of Defendants

The purposes of the defendants included the following:

1. Enriching themselves and others through, among other things, mail fraud, and wire fraud.
2. Preserving and protecting the power and profits of the defendants and others.

C. Roles of Defendants

1. The defendants participated in the operation and management of the Enterprise.
2. At all times relevant to this indictment, defendant **Todd Reid** was a leader of the enterprise who directed and supervised other members of the enterprise in carrying out unlawful and other activities in furtherance of the conduct of the Enterprise's affairs. **Todd Reid** was Senior Vice President of DENA East and was in charge of the DENA East supervisors who managed

financial gas trading, financial electric power trading and Financial Portfolio Management until his termination in August 2002.

3. At all times relevant to this indictment, defendant **Timothy Kramer** was a leader of the Enterprise who directed and supervised other members of the Enterprise in carrying out unlawful and other activities in furtherance of the conduct of the Enterprise's affairs. **Timothy Kramer** was Vice President of Financial Portfolio Management and was in charge of several financial traders of gas and electric power. **Timothy Kramer** reported directly to **Todd Reid** until his termination in August 2002.

4. At all times relevant to this Indictment, under the leadership and direction of **Todd Reid** and **Timothy Kramer**, defendant **Brian Lavielle** participated in unlawful and other activities in furtherance of the conduct of the Enterprise's affairs. **Brian Lavielle** reported directly to **Timothy Kramer**.

5. Defendants as a group engaged in acts of fraud relating to the conduct of trading activities at Financial Portfolio Management and the movements of trades and portions of trades between the books and records of DENA East and Duke Energy.

D. The Conspiracy

1. From in or about March 2001 and continuing until in or about May 2002, in the Southern District of Texas, and elsewhere, the defendants,

**TIMOTHY KRAMER
TODD REID and
BRIAN LAVIELLE,**

together with others, to the grand jury unknown, being persons employed by and associated with Financial Portfolio Management, that is, an Enterprise which was engaged in, and the activities of which affected, interstate and foreign commerce, unlawfully and knowingly did combine, conspire, confederate, and agree with each other, and with persons unknown to the Grand Jury to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the

Enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5).

2. The pattern of racketeering activity through which the defendants agreed to conduct the affairs of the Enterprise consisted of multiple acts:

a. Indictable under Title 18, United States Code, Sections 1341, and 1346, (mail fraud);

b. Indictable under Title 18, United States Code, Sections 1343, and 1346, (wire fraud);

3. It was a part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering in the conduct of the affairs of the Enterprise.

E. Manner and Means of the Conspiracy

4. It was a further part of the conspiracy that the defendants and other conspirators unknown to the grand jury would violate their duties of honesty and trust that they owed to Duke Energy in order to generate money and property for themselves and the other members of the conspiracy.

5. It was a further part of the conspiracy that defendants would and did manage and conduct the management of trading activity and the entry of trades into the books and records of DENA East and Duke Energy through the commission of mail and wire fraud, so as to enrich themselves and other members of the conspiracy.

6. It was a further part of the conspiracy that the defendants would and did devise, intend to devise, and participate in a series of transactions fraudulently designed to misrepresent day-one P&L in the mark-to-market books of Duke Energy and DENA East for the purpose of increasing their bonuses from Duke Energy.

7. It was part of the conspiracy that the defendants would and did systematically select profitable trades and cause them to be entered into a mark-to-market book and unprofitable trades to be entered into an accrual book in contravention of GAAP.

8. It was a further part of the conspiracy that the defendants would and did cause round trip trades to be made with other companies and cause the profitable portion of the trades to be entered into a mark-to-market

book, with the unprofitable portion being entered into the accrual book.

9. It was a further part of the conspiracy that the defendants would and did cause certain round trip trades to be made at "off-market prices" for the purpose of creating a larger "profit" for one portion of the trade, which would be entered into a mark-to-market book with the unprofitable portion being entered into an accrual book.

10. It was further part of the conspiracy that the defendants would and did cause certain trades to be made between a mark-to-market book and an accrual book of DENA East at fraudulently inflated prices, resulting in "profits" in a mark-to-market book and losses in an accrual book.

11. It was further part of the conspiracy that the defendants would and did attempt to recruit other officers and employees of DENA East to participate in the conspiracy.

12. It was a further part of the conspiracy that the defendants would and did manipulate the volumes and

prices of certain trades by splitting the trades into multiple components when entering the trades into the books and records of DENA East for the purpose of concealing the conspiracy from certain auditors and officers of Duke Energy.

13. It was a further part of the conspiracy that the defendants would and did make false statements to officers and employees of Duke Energy and conceal material information from them for the purpose of prolonging the conspiracy.

14. It was a further part of the conspiracy that the defendants would and did cause the execution of over 400 trades with the intent to fraudulently misrepresent day-one P & L in the mark-to-market books of DENA East by approximately \$50,000,000.

F. Overt Acts of the Conspiracy

15. The following overt acts were committed in the Southern District of Texas and elsewhere for the purpose of furthering the objects of the conspiracy:

(1) In or about March 2001, **Todd Reid** gave control of the Long-term Strategy mark-to-market book to **Timothy**

Kramer.

(2) On or about April 20, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** had a conversation about entering certain profitable trades and portions of round trip trades into a mark-to-market book and unprofitable trades and portions of round trip trades into an accrual book.

(3) On or about April 20, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused the entry of profitable trades and portions of trades into a mark-to-market book, resulting in approximately \$80,000 of day-one profit in the mark-to-market book by causing the "sell" side of the round trip trades to be recorded in the mark-to-marketbook and the "buy" sides to be recorded in the accrual book.

(4) On or about April or May 2001, in Houston, Texas, upon being informed by a DENA East employee that profit was being moved from an accrual book to a mark-to-market book, **Timothy Kramer** told the DENA East employee not to worry about it.

(5) On or about May 15, 2001, in Houston, Texas, **Brian Lavielle** asked a trade broker to arrange three round trip trades at a prices constituting "last night's settle" as follows:

- A. To buy and sell a certain volume of natural gas for calendar year 2002 at \$4.460.
- B. To buy and sell a certain volume of natural gas for calendar year 2002 at \$4.460.
- C. To buy and sell a certain volume of natural gas for calendar year 2003 at \$4.175.

(6) On or about May 15, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused approximately \$2,747,000 of day-one profit to be recorded in a mark-to-market book as a result of the three round trip trades completed that day by causing the profitable "buy" sides of those trades to be entered into a mark-to-market book and a corresponding loss to be entered into the accrual book from the unprofitable "sell" sides.

(7) On or about May 30, 2001, in Houston, Texas, **Brian Lavielle** asked a trade broker to arrange two round trip trades as follows:

- B. To buy and sell a certain volume of natural gas for calendar year 2002 at \$3.93.

- B. To buy and sell a certain volume of natural gas for calendar year 2002 at \$3.95.

(8) On or about May 30, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused approximately \$910,000 of day-one profit to be recorded in a mark-to-market book as a result of the two round trip trades completed that day by causing the profitable "buy" sides of those trades to be entered into a mark-to-market book and a corresponding loss to be entered into the accrual book from the unprofitable "sell" sides.

(9) On or about August 8, 2001, in Houston, Texas, **Brian Lavielle** caused three round trip trades to be made as follows:

- A. To buy and sell a certain volume of natural gas for calendar year 2002 at \$3.530.
- B. To buy and sell a certain volume of natural gas for calendar year 2002 at \$3.540.
- C. To buy and sell a certain volume of natural gas for calendar year 2002 at \$3.535.

(10) On or about August 8, 2001, in Houston, Texas, **Timothy Kramer** split the profitable portions of three round trip trades into smaller units when entering the

profits into a mark-to-market book.

(11) On or about August 8, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused approximately \$663,000 of day-one profit to be recorded in a mark-to-market book as a result of the three round trip trades completed that day by causing the profitable "buy" sides of those trades to be entered into a mark-to-market book and a corresponding loss to be entered into the accrual book from the unprofitable "sell" sides.

(12) On or about November 30, 2001, in Houston, Texas, **Brian Lavielle** caused four round trip trades to be made as follows:

- A. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.33.
- B. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.34.
- C. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.24.
- D. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.25.

(13) On or about November 30, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused the profitable "sell" sides at \$3.33 and \$3.34 and the

profitable "buy" sides at \$3.24 and \$3.25 to be entered into a mark-to-market book and the unprofitable "buy" sides at \$3.33 and \$3.34 and the unprofitable "sell" sides at \$3.24 and \$3.25 to be recorded in an accrual book, resulting in the entry of approximately \$657,000 in day-one profit in the mark-to-market book with a corresponding loss of \$657,000 in the accrual book.

(14) On or about December 4, 2001, in Houston, Texas, **Brain Lavielle** asked a trade broker to arrange four round trip trades as follows:

- A. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.240.
- B. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.250.
- C. To buy and sell a certain volume of natural gas for calendar year 2003 at \$3.245.
- D. To buy and sell a certain volume of natural gas for calendar year 2002 at \$2.87.

(15) On or about December 4, 2001, in Houston, Texas, **Timothy Kramer** split the profitable portions of the four round trip trades into smaller units when entering the profits into a mark-to-market book.

(16) On or about December 4, 2001, in Houston, Texas, **Timothy Kramer** and **Brian Lavielle** caused approximately \$555,000 of day-one profit to be recorded in a mark-to-market book as a result of the four round trip trades completed that day by causing the profitable "sell" sides of those trades to be entered into a mark-to-market book and a corresponding loss to be entered into the accrual book from the unprofitable "buy" sides.

(17) In or about December 2001, **Todd Reid** told a DENA East employee that **Timothy Kramer** would wait until the end of the day, and, depending on how the market settled, would put the profitable trades into a mark-to-market book and the unprofitable trades into an accrual book.

(18) On Monday, March 11, 2002, **Todd Reid** told a DENA East trader that he should consider moving some trades out of an accrual book at Friday's prices and into a mark-to-market book in hopes of booking a \$10,000,000 profit in a mark-to-market book.

(19) On or about March 11, 2002, **Timothy Kramer** told a DENA East trader that **Todd Reid** wanted the trader to

know how much flexibility he had to move trades from the accrual book to the mark-to-market book at the previous day's closing price.

In violation of Title 18, United States Code, Section 1962(d).

COUNTS TWO THROUGH TEN

(Wire Fraud -- 18 U.S.C. § 1343)

1. The allegations set forth in the Introduction to this indictment and Section E of Count One are repeated and realleged as if fully set forth herein.

2. Beginning in or about March 2001, and continuing until in or about May 2002, in the Houston Division of the Southern District of Texas, the defendants

**TIMOTHY KRAMER
TODD REID, and
BRIAN LAVIELLE,**

did knowingly devise, intend to devise, and participate in a scheme to defraud and to obtain money and property from Duke Energy by means of materially false and fraudulent pretenses, representations and promises, and material omissions, and to deprive Duke Energy and its shareholders of the intangible right to the honest

services of employees of Duke Energy, which scheme is set forth in Section E of Count One.

3. On or about the following dates, in the Southern District of Texas, for the purpose of executing the scheme and artifice to defraud to obtain money and property, and to deprive Duke Energy and its shareholders of their right to honest services, the defendants **Todd Reid**, **Timothy Kramer**, and **Brian Lavielle** did cause the following items to be transmitted by wire in interstate commerce:

Count	Approximate Date	Description	Communication
2	April 20, 2001	Trade Confirmation Sent from Trade Broker in New York, New York to DETM in Houston, Texas	Interstate Wire (fax)
3	May 15, 2001	Telephone call involving Brian Lavielle in Houston, Texas and a Trade Broker in New York, New York	Interstate Wire (telephone call)
4	May 30, 2001	Trade Confirmation Sent from Trade Broker in New York, New York to DETM in Houston, Texas	Interstate Wire (fax)

5	August 8, 2001	Telephone call involving Brian Lavielle in Houston, Texas and a Trade Broker in New York, New York	Interstate Wire (telephone call)
6	August 16, 2001	Trade Confirmation Sent from Trade Broker in New York, New York to DETM in Houston, Texas	Interstate Wire (fax)
7	November 30, 2001	Telephone call involving Brian Lavielle in Houston, Texas and a Trade Broker in New York, New York	Interstate Wire (telephone call)
8	December 4, 2001	Telephone call involving Brian Lavielle in Houston, Texas and a Trade Broker in New York, New York	Interstate Wire (telephone call)
9	January 31, 2002	Trade Confirmation Sent from Trade Broker in New York, New York to DETM in Houston, Texas	Interstate Wire (fax)
10	February 22, 2002	Message Sent from Timothy Kramer in Houston, Texas to Cinergy Energy Services in Cincinnati, Ohio regarding round trip trades	Interstate Wire (email)

In violation of Title 18, United States Code, Sections 1343 and 1346.

COUNTS ELEVEN, TWELVE AND THIRTEEN

(Mail Fraud -- 18 U.S.C. § 1341)

1. The allegations set forth in the Introduction to this indictment and Section E of Count one are repeated and realleged as if fully set forth herein.

2. Beginning in or about March 2001, and continuing until in or about May 2002, in the Houston Division of the Southern District of Texas, the defendants,

**TIMOTHY KRAMER
TODD REID, and
BRIAN LAVIELLE,**

did knowingly devise, intend to devise, and participate in a scheme to defraud and to obtain money and property from Duke Energy by means of materially false and fraudulent pretenses, representations and promises, and material omissions, and to deprive Duke Energy and its shareholders of the intangible right to the honest services of employees of Duke Energy, which scheme is set forth in Section E of Count One.

3. On or about the following dates, in the Southern District of Texas, for the purpose of executing the scheme

and artifice to defraud to obtain money and property, and to deprive Duke Energy and its shareholders of their right to honest services, the defendants **Todd Reid**, **Timothy Kramer**, and **Brian Lavielle** did cause the following items to be delivered by mail and commercial interstate carrier:

Count	Defendant	Item Delivered	To/From/Date
11	Todd Reid	Bonus Check in Amount of \$1,265,041.50 for Todd Reid Sent from Duke Energy via Federal Express	Charlotte, North Carolina to Houston, Texas on or about March 14, 2002
12	Timothy Kramer	Bonus Check in Amount of \$1,205,432.22 for Timothy Kramer Sent from Duke Energy via Federal Express	Charlotte, North Carolina to Houston, Texas on or about March 14, 2002
13	Brian Lavielle	Bonus Check in Amount of \$160,098.33 for Brian Lavielle Sent from Duke Energy via Federal Express	Charlotte, North Carolina to Houston, Texas on or about March 14, 2002

In violation of Title 18 United States Code, Sections 1341 and 1346.

COUNT FOURTEEN

(Falsification of the Books of Duke Energy)
(15 U.S.C. § 78m(B)(2) and 78m(B)(5))

1. The allegations set forth in the Introduction of this indictment are repeated and realleged as if fully set forth herein.

2. Beginning in or about March 2001, and continuing thereafter until in or about July 2002, in the Southern District of Texas, the defendants,

**TIMOTHY KRAMER
TODD REID, and
BRIAN LAVIELLE,**

aided and abetted by each other, knowingly and willfully, directly and indirectly, falsified and caused to be falsified books, records, and accounts of Duke Energy, which, in reasonable detail, were required accurately and fairly to reflect the transactions and dispositions of the assets of that company, an issuer of a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934.

In violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1, and Title 18, United States Code, Section 2.

COUNTS FIFTEEN THROUGH EIGHTEEN

(Unlawful Monetary Transactions -- 18 U.S.C. § 1957)

1. On or about the dates set forth below, within the Southern District of Texas, the defendants,

**TIMOTHY KRAMER and
TODD REID,**

did knowingly engage and attempt to engage in the monetary transactions set forth below by, through, and to the financial institutions identified below, which monetary transactions affected interstate commerce and involved criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activities, that is mail fraud and wire fraud:

Count	Defendant	Date	Monetary Transaction	Financial Institution
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15	Timothy Kramer	March 15, 2002	Transfer and deposit of \$1,205,432.22 bonus check from Houston, Texas to a financial institution	State Farm South Texas Federal Credit Union in Austin, Texas
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16	Timothy Kramer	January 22, 2003	Transfer of \$250,000 between an account in the name of Lori Kramer and an account in the name of Houston Research & Trading	State Farm South Texas Federal Credit Union in Austin, Texas and Southwest Bank of Texas in Houston, Texas
17	Todd Reid	March 26, 2002	Transfer of \$60,000 from an account in the name of Amy and Todd Reid to another account in the same name	Compass Bank in Houston, Texas
18	Todd Reid	July 9, 2002	Transfer of \$370,000 from an account in the name of Todd and Amy Reid to another account in the same name	A.G. Edwards & Sons and Compass Bank in Houston, Texas

In violation of Title 18, United States Code, Sections 1957 and 2.

NOTICE OF CRIMINAL FORFEITURE

(Title 18, United States Code, Section 1963(a))

1. The allegations contained in Count One of this

Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963. Pursuant to Rule 32.2, Fed. R. Crim. P., notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 1963 in the event of any defendant's conviction under Count One of this Indictment.

2. The defendants,

**TIMOTHY KRAMER
TODD REID and
BRIAN LAVIELLE**

a. have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

b. have property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity, in violation of Title 18, United

States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

3. The interests of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1) and (3), include but are not limited to:

a. at least \$7,000,000.00.

4. If any of the property described in paragraphs 2 and 3 above, as a result of any act or omission of a defendant --

- d. cannot be located upon the exercise of due diligence;
- e. has been transferred or sold to, or deposited with, a third party;
- f. has been placed beyond the jurisdiction of the court;
- g. has been substantially diminished in value; or
- h. Has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendants up to the value of any property set forth in paragraphs 2 and 3 above.

5. The above-named defendants, and each of them, are jointly and severally liable for the forfeiture obligations as alleged above.

All pursuant to Title 18, United States Code, Section 1963.

NOTICE OF CRIMINAL FORFEITURE

(Title 18, United States Code, Section 981(a)(1)(C))

Pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), the United States gives notice that the defendants

TIMOTHY KRAMER (Count Twelve)
TODD REID and (Count Eleven)
BRIAN LAVIELLE (Count Thirteen)

shall forfeit all property which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1341, as alleged in Counts Eleven through Thirteen, respectively, of the Indictment, including, but not limited to:

approximately \$1,265,041.50 (Count Eleven), \$1,205,432.22 (Count Twelve), and \$160,098.33 (Count Thirteen) in United States Dollars.

NOTICE OF CRIMINAL FORFEITURE

(Title 18, United States Code, Section 982)

Pursuant to Title 18, United States Code, Section 982, as a result of the commission of a violation of Title 18, United States Code, Section 1957, notice is given that the defendants

TIMOTHY KRAMER (Counts Fifteen and Sixteen)
TODD REID (Counts Seventeen and Eighteen)

shall forfeit to the United States all property, real and personal, involved in the offense charged in Counts Fifteen through Eighteen of the Indictment, and all property traceable to such property, including, but not limited to:

approximately \$1,205,000.00 (Count Fifteen), \$250,000.00 (Count Sixteen), \$60,000.00 (Count Seventeen) and \$370,000.00 (Count Eighteen) in United States Dollars.

SUBSTITUTE ASSETS

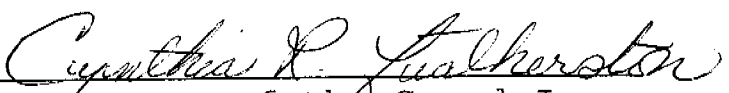
In the event that the property which is subject to forfeiture to the United States, as a result of any act or omission of the defendants:

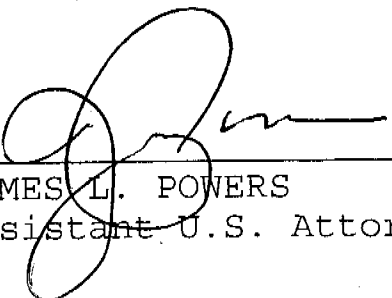
(1) cannot be located upon exercise of due diligence;

- (2) has been placed beyond the jurisdiction of the Court;
- (3) has been transferred or sold to, or deposited with a third party;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of the defendants up to the value of such property, pursuant to Title 18, United States Code, Section 1963(m) and Title 21, United States Code, Section 853(p), incorporated by reference into Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

A TRUE BILL


Foreperson of the Grand Jury


JAMES L. POWERS
Assistant U.S. Attorney